Nuclear Give-Away Passed

How A Bill to Speed Up the Atomic Arms Race Went Through An Indifferent Congress, Pages 2 & 3

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Did Attorney General Rogers Make A Deal on Civil Rights to Get Confirmation?

How to Meet the New Crisis Arising Over Little Rock

Five years ago, when Mr. Justice Douglas stayed the execution of the Rosenbergs, the Supreme Court was specially convoked by Chief Justice Vinson on application of the Attorney General. The Justices were hastily recalled from vacation and met within 24 hours; the stay was overruled next day. A decade ago, in the war-time summer of 1942, when the eight Nazi saboteurs appealed from their death sentences on habeas corpus, Chief Justice Stone called the Supreme Court into special session within 48 hours and handed down a final decision two days later. We propose that a group of eminent lawyers petition the President to instruct the Attorney General to intervene in the Little Rock case and ask the Supreme Court to act with similar dispatch this summer upon the school board appeal. The Republic would not have been shaken if the blood lust in the Rosenberg case had gone unslaked a few months longer. But there are compelling reasons to settle the Little Rock litigation once and for all in our highest tribunal before the new school year opens. The Lemley decision, for the first time allowing deliberate speed *backward* on integration, may otherwise set off a chain reaction that could end by tearing this country apart. To hand the racists a victory, to undermine what is left of the Southern moderates, to embitter the Negro, to make hoodlums and juvenile delinquents believe they can overawe the law—this is what Judge Lemley did. This is what the Supreme Court alone can reverse.

Explosive Potentialities

A stay of the Lemley order by the Eighth Circuit Court of Appeals pending argument on the merits next Fall will not meet the crisis. So long as there is any chance that the Lemley order suspending integration in Little Rock for two and a half years might be upheld on appeal, it will be hard to keep discipline within and without the Little Rock high school. A Federal District Judge has ruled that somehow, when the law is defied long enough, the defiance becomes lawful. Integration will be enforcible nowhere in the South, with or without Federal troops, so long as it is felt that racist students within the schools can force suspension of court orders by terrorizing Negro students and disrupting school work. The mob within the school becomes more effective than the mob without. Southern white moderates who, up to now, have had left the one argument of obedience to law, are undercut by the possibility that Federal judges may in some cases reward disobedience. The integration fight entered a new and more dangerous phase with the Lemley decision. It is hard to see how the explosive potentialities can now be repressed unless the highest organs of government, the President, the Attorney General and the Supreme Court, act with dignity and decision.

Warning on the Right to Travel

Our first reports last week on the passport situation in the wake of the Supreme Court decision were too optimistic. There is danger that restrictive travel legislation will pass at this session. The State Department's action to drop the non-Communist affidavit without waiting for the Court's formal mandate is a red rag to the rightists. Five different Congressional committees now have bills to curtain passports and friends of the right to travel had better bestir themselves. The Senate Foreign Relations Committee will hold two days of public hearing on the subject July 9 and 10 (not July 7 as incorrectly reported in the daily press). Eastland has introduced the most sweepingly restrictive measure of all and is in position to report it out without hearings from his Senate Judiciary Committee. Walter has a similar bill in the House. Racist and reactionary feeling against the Supreme Court is so great that any bill which seems to hit the Court is likely to pass once it gets out of the floor of either House. Watch next week's issue for a full report on the new travel bills.

No Need to Wait for the 8th Circuit

There is no need to wait for action by the Eighth Circuit. Rule 20 of the Supreme Court provides for direct appeal to our highest tribunal "upon a showing that the case is of such imperative public importance as to justify the deviation from normal appellate processes and to require immediate settlement in this court." This rule was invoked for direct appeals to the Supreme Court when Truman seized the steel industry and again when John L. Lewis and the mine workers refused to obey an anti-strike injunction. It was used during the New Deal period in suits to test the validity of the Guffey coal act, railroad retirement pensions and the suspension of gold payment. None of these cases called as urgently as does Little Rock for swift final action in our highest court.

The situation in Little Rock is peculiarly the responsibility of the bar. A widening breakdown of law and order may be a consequence and there is no sign visible here of leadership from the White House unless lawyers whose names command public respect focus attention on the danger and press for action. The President was his most charming self during his conference last Monday with the four Negro leaders but they got nothing. Martin Luther King told the press after-

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Administration Mendacity, Public Apathy and Liberal Timidity . . .

The Congress of the United States probably never passed more important legislation with less debate upon it than in the case of the so-called nuclear give-away bill. Though this lays the legal foundations for establishing nuclear missile bases in Europe and training our allies to fight a war in which nuclear weapons would be "conventional," and though it will speed up the process of initiating more nations into the nuclear arms club, it passed the Senate June 23 on a voice vote with about a dozen Senators present. A few days earlier, on June 19, it had passed the House after a short debate in which some misgivings were expressed to the few members (not more than 50 to 70 at any one time) in attendance. When the membership was hastily summoned for a roll-call, the vote was 345-12 in favor of the bill.

Humphrey and Morse Silent

This meagre discussion and lopsided vote reflected the mendacity with which the Administration presented this bill last January as a mere matter of sharing scientific information, the numbed apathy of public opinion, and the timidity of most liberals in Congress who fear to go beyond safe cliches in challenging the Administration on military policy. So in the House, Reuss of Wisconsin, who leads a maverick group on foreign policy, sat silent and voted for the bill. In the Senate, Humphrey—who has made a reputation during the past six months as chairman of a disarmament subcommittee—was conspicuous by his absence. Though this bill will speed up the arms race, Humphrey has said not one word on the matter in all the weeks it has been before Congress. Morse was also silent. Hennings of Missouri was the only liberal in the Senate who rose in support of Anderson's one-man fight to write more safeguards into the bill, and tried to add an amendment of his own. The text in the Congressional Record in its bareness nakedly reveals the abdication of those to whom we have looked in the past to express the better conscience of the country.

To Congressman Frank Thompson, Jr. (*D. N. J.*) goes the honor of waging a one-man fight in the House for two amendments which would have added important safeguards to the bill. One would have written directly into the bill a strict definition of the vague phrase "substantial progress," evidence of which is required before another country can qualify for nuclear weapons materials and restricted data. The other would have required the Joint Committee on Atomic Energy to make a report to the Congress within 30 days on any nuclear sharing agreement submitted to it under this legislation. Both amendments were defeated.

A major reason for the weak position taken by the liberals in the House, notably Congressmen Porter of Oregon, and James Roosevelt of California, who voted for it after expressing doubts, was the reassuring attitude of Congressman Holifield of California. The latter performed a public service in focussing attention on the dangers in this bill, but supported the bill on the floor after winning certain changes in

Four Wars In One Lifetime Enough

"I am 76 years old, and in my lifetime the youth of my country has four times responded to the call of arms in four major wars. . . . I do not know that the vote I shall cast today will be the right vote, but I know that I can vote in no other way and continue to live with myself. . . . I do believe in the sharing of scientific knowledge. . . . But I read in this bill nothing to indicate that this to be a sharing in knowledge for anything except military application. . . . What is proposed now is to encourage other nations to load up with atomic weapons and to increase their power of producing them. . . . At the present time we are reaching for an understanding so that the atomic weapon can be outlawed forever. It may be that the progress is slow, but we are not going to help that progress by encouraging other nations to get into the race of building more and more atomic weapons."

—O'Hara (D. Ill.) against the nuclear give-away, before the House voted, June 19.

The Senate as Rubber Stamp

"I believe we can understand how conditions have changed when we realize that only a few years ago, when the Cole-Hickenlooper bill was before the Senate for consideration we spent 13 days debating the Dixon-Yates contract, which was, at most, a question of the loss of some money and perhaps the loss of a little property.

"Today, when the proposal is made to transfer to other nations a substantial number of atomic secrets, we have reached the point where we have present in the Senate only four or five members of the Joint Committee on Atomic Energy and they are already so familiar with the subject that there may be very little discussion of it, and it is desired to pass the bill in a matter of a few minutes, without any debate or recall."

—Anderson, to the almost empty Senate which passed the atomic give-away bill, June 23.

Legislating in the Dark for New Horrors of Nuclear-Bacteriological Warfare

Mr. ANDERSON. What is meant by the words 'other applications of atomic energy' [in the nuclear give-away bill]?

Mr. PASTORE. . . . Subsection 114 b (5) has to do with information pertaining to biological and isotopic elements within the atomic energy field. When we tried to tie the military witnesses down precisely as to what it meant, I will admit to the Senator from New Mexico they could not be too certain, because it was rather speculative. . . . I had in mind particularly the testimony of General Loper. . . .

Mr. ANDERSON. No. The general said it applied to isotopes in medicine. . . .

Mr. PASTORE. The witnesses . . . were a little fearful, now that we have reached the stage of using isotopes and are talking about bacteriological warfare, that there might be involved something which might come close enough to the line of restricted data, so that they might not legally be able to discuss it with an ally. . . .

Mr. ANDERSON. All over the world we are telling people how we are trying to use atomic energy for medical purposes and for all sorts of other useful purposes. . . . When we asked them [the Defense Dept. witnesses] what it meant, they said there might be some biological warfare connected with it.

—Senate debate June 23 on the atomic give-away bill.

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. . . Explain Why Congress Rubber-Stamped the Nuclear Give-Away Bill

committee. The original bill would have given the Administration a blank-check to give out what Senator Anderson called "nuclear make-it-yourself kits" to any country it chose. One amendment won by Holifield and Anderson in committee was the "substantial progress" clause added to the provisions authorizing the sharing of nuclear materials and restricted weapons data. The other was a clause providing that any sharing agreement could be vetoed by Congress if it passed a concurrent resolution within 60 days. If Congress does not act within that period, the agreement goes into effect.

Sixty Days Too Little

Without the defeated Thompson amendment, however, there is nothing to keep an agreement from being bottled up in committee until it is too late to act on it, nor to prevent the leadership in either house from blocking a vote until the 60 days are past. Since few members of Congress understand what this bill is all about even after six months, it is unlikely that they would prove so curious and militant about a complicated agreement framed under it as to force passage of a vetoing resolution in 60 days.

Unlike Holifield, Anderson did not feel obligated to support the bill on the floor in return for the concessions won in committee. He introduced three amendments in the Senate and got two accepted but with the understanding that their ultimate fate would depend on action in conference committee. The conference committee, which will have the task of reconciling the House and Senate versions, will almost certainly reject the Anderson amendments. The important amendment of the two would make the "substantial progress" clause applicable to the transfer of non-nuclear components of atomic weapons as well as to the nuclear parts. The Administration, which has the support not only of both party leaderships but of the liberals, too, will fight this for it would impede the establishment of atomic missile bases abroad. The missiles are non-nuclear components to which nuclear war heads would be fitted if war breaks out.

The 12 Who Voted "No" in the House

Abernethy (D. Miss.), Bennett (D. Fla.), Cunningham (R. Nebr.), Dent (D. Pa.), Dooley (R. N. Y.), Dowdy (D. Tex.), Mrs. Green (D. Oreg.), O'Hara (D. Ill.), Wharton (R. N. Y.), Whitten (D. Miss.), Williams D. Miss.), Winstead (D. Miss.).

Only Russell and Dworshak Protested

"I shall vote against the pending bill. . . . I have consistently rejected the argument that it would strengthen the free world to disseminate more widely information about the making of atomic weapons or by distributing atomic weapons to those who are associated with us in various pacts or treaties. . . . The Senate, by a substantial majority, has accepted every thesis of sharing or giving which has been advanced by the Department of State. It is bad enough in other fields, Mr. President, but in this field I regard it as being particularly tragic."

—Russell, chairman Senate Military Affairs, on passage of the atomic give-away bill, June 23.

Only Two Newspapers Spoke Out

The fight against this bill was impeded by the attitude of the press. Except for the *Chicago Tribune* and the *St. Louis Post-Dispatch,* no other major newspaper to my knowledge opposed the bill or even covered its provisions adequately. The ADA, by supporting the bill, largely due to the influence of former State Department Counsellor Benjamin V. Cohen, affected the attitude of Senators like Humphrey whom it influences. The National Committee for A Sane Nuclear Policy, the Women's International League for Peace and Freedom, and the Friends Committee on National Legislation deserve a salute for their hard work against the bill. We ourselves were immensely heartened by the flood of letters asking extra copies of our special issue of June 23 on the legislation; close to 10,000 extra copies were circulated.

All that was done in the fight against the bill may help to alert more people for an effective campaign when the first nuclear sharing agreements come before Congress. Generally speaking, we see no objection to sharing with Great Britain, which is already a thermonuclear power. But there will still be a fighting chance to slow up the emergence of new nuclear powers when agreements with other countries come up under the 60-day provision next year. There is also the possibility, foreshadowed by a *New York Times* editorial June 21 that the Administration might be emboldened by the indifference of Congress to ask next year for the restoration of the "blank check" in the original bill. The fight is not yet over. Now is the time to intensify public education on nuclear issues.

A Supporter of the Atomic Give-Away Bill Explains How It Will Cut Down Testing

Mr. FARBSTEIN. Is it the opinion of the gentleman that the passage of this bill will very likely reduce the number of nuclear test explosions?

Mr. HOSMER [a member of the Joint Committee on Atomic Energy]. Let us look at it this way. . . . The reason we possessed the [nuclear] weapons earlier than anybody else was because we had the resources, the money and the manpower to go ahead and do the job. These other nations can do it on a slower basis. A lot of them feel that with an atomic armed enemy, such as the Soviets, if they are not made nuclear capable by us they are going to have to go out and do it on their own and to do it on their own they are going to have to test. If we give them that nuclear capability, they will not have to go out and do that, they are not going to have to have these tests. By 'nuclear capability' I do not mean the capability to blow up a bomb whenever they feel like it. That is not the point. We keep possession of these weapons. But with their delivery systems and these weapons of ours, if the whistle blows, the two can be hooked together and used for our mutual defense against the other fellow who already has them.

Mr. FARBSTEIN. Then, I understand, the gentleman draws the reasonable conclusion that the passage of this bill will require less nuclear tests; is that correct?

Mr. HOSMER. Undoubtedly. . . .

—House Debate on the Nuclear Give-Away, June 19.

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Harry Ashmore, Courageous Arkansas Editor, Puts the Spotlight on A Strange Scene

What Made Eastland, Ervin and Johnston So Happy With Rogers?

(*Continued from Page One*)

ward there were still white Southerners who did not dare act on the local level but would respond to an invitation from the White House for an inter-racial conference. This could break the pall of fear settling on the South, cutting off not only communication between the races but free discussion among white men themselves. There is no evidence that Mr. Eisenhower will act in this sphere or in any other without pressure. A dozen leading lawyers could by a dramatic appeal now save the country much agony later.

More Precious Than Vicuna

There is a further, disturbing, reason for applying pressure. It lies in the new Attorney General, the young man with the closed and non-committal face in that group picture of a smiling President and his four gratified Negro visitors at the White House. Harry Ashmore, the courageous executive editor of the Arkansas Gazette, in a recent speech to the Nieman fellows at Harvard (now printed in the June issue of *Harpers*) implies that something more precious than a vicuna coat or an oriental rug passed between Mr. Rogers and the dominant Southerners on the Senate Judiciary Committee as the price of his unexpectedly smooth confirmation earlier this year as Attorney General.

Mr. Ashmore says that the most important part of what he calls "The Untold Story Behind Little Rock" occurred here in Washington. He accuses the Administration of leaving to the Little Rock School Board "the entire burden of carrying out the court order against impossible odds." He notes that Mr. Rogers after taking office said there were no plans for further legal action in Little Rock and that the Administration would not ask for additional civil rights legislation this session, "a matter of some moment since the Justice Department had previously used as an excuse for inaction at Little Rock the failure of the enforcement provisions in the last civil rights bill." Mr. Ashmore notes that following these assurances Mr. Rogers appeared before the Senate Judiciary Committee "and was recommended for confirmation without a single question being addressed to him regarding his past or future course in the Little Rock case." Mr. Ashmore refers to this as "one of the most singular political deals in recent years."

A Striking Contrast

At the Senate Judiciary Committee rooms this week, we read the (as yet unpublished) transcript of Mr. Rogers' hearing and of that accorded W. Wilson White, still awaiting confirmation as Assistant Attorney General in charge of the new civil rights division. Mr. White was subjected to two days of fierce questioning on Little Rock by Senators Ervin, Eastland and Johnston, and is still awaiting recall for more of the same from McClellan. But his superior officer, Mr. Rogers, did—as Mr. Ashmore charges—receive strikingly different treatment. His one day hearing was taken up with questions by liberal Senators on anti-trust and Dixon-Yates and Sherman Adams's peculiar claim of executive privilege in that scandal. Ervin, Eastland and Johnston asked no questions of Rogers. The only remark was by Ervin who said he would not ask Mr. Rogers any questions "because it would be too much to hope for, to hope that the Attorney General would undertake the same sound views on all subjects that I am taking." The transcription at this point notes laughter.

It would be good to know exactly what was the joke that kept Ervin, Eastland and Johnston so happy that day about the new Attorney General. That scene is, if we may mix our metaphor, the Achilles heel of the Administration. By pressing on it, the Attorney General may be forced to intervene as a friend of the court in the Little Rock litigation, to bring some action against the mob leaders who acted in contempt of the Court's orders last Fall, and to speed swift action by the Supreme Court. Is there a liberal Senator with the nerve to violate Senatorial *de rigeur* and invite attention to that cozy scene last January 22 before the Senate Judiciary Committee?

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